## The Commonwealth of Massachusetts

August 26, 2010.

The committee on Bills in the Third Reading, to whom was referred the House Bill establishing a post employment benefits trust fund in the town of Wayland (House, No. 4319), reports recommending that the same be amended by substitution of the accompanying bill (House, No. 5005), and that when so amended the bill will be correctly drawn.

## FOR THE COMMITTEE:

NAME: DISTRICT/ADDRESS:

Vincent A. Pedone 15th Worcester

## The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act establishing a postemployment benefits trust fund in the town of Wayland.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. As used in this act, the following words shall have the following meanings:—
- 2 'GASB 43 and 45', Statements 43 and 45 of the Governmental Accounting Standards Board and its
- 3 successors.
- 4 'Other postemployment benefits' or 'OPEB', postemployment benefits other than pensions as that term is
- 5 defined in GASB 43 and 45 including postemployment healthcare benefits, regardless of the type of plan
- 6 that provides them, and all postemployment benefits provided separately from a pension plan, excluding
- 7 benefits defined as termination offers and benefits.
- 8 SECTION 2. (a) There shall be in the town of Wayland an OPEB Trust Fund, which shall be under the
- 9 supervision and management of the town's contributory retirement board established under paragraph (b)
- of subdivision (4) of section 20 of chapter 32 of the General Laws. The town treasurer shall be the
- 11 custodian of the OPEB Trust Fund and may employ an outside custodial service.
- 12 (b) Beginning in fiscal year 2008, the OPEB Trust Fund shall be credited with all amounts appropriated
- or otherwise made available by the town for the purposes of meeting the current and future OPEB costs
- 14 payable by the town. The OPEB Trust Fund shall be credited with all amounts contributed or otherwise
- made available by employees of the town for the purpose of meeting future OPEB costs payable by the
- 16 town. Amounts in the OPEB Trust Fund, including any earnings or interest accruing from the investment
- of these amounts, shall be expended only for the payment of the costs payable by the town for OPEB in
- consultation with the town's contributory retirement board. Subject in each instance to the approval of the
- 19 town's contributory retirement board, the town treasurer shall invest and reinvest the amounts in the
- 20 OPEB Trust Fund not needed for current disbursement consistent with the prudent investor rule; but no
- 21 funds shall be invested directly in mortgages or in collateral loans. The OPEB Trust Fund shall be subject
- 22 to the public employee retirement administration commission's triennial audit.
- 23 (c) The board may employ a qualified bank, trust company, corporation, firm or person to advise it on the

- 24 investment of the OPEB Trust Fund and may pay from the OPEB Trust Fund for the advice and other
- 25 services determined by the town's contributory retirement board. Procurement for these services shall be
- subject to the procurement procedures and rules followed by the town's contributory retirement board for
- 27 services to the town's contributory retirement system.
- 28 (d) If a civil action is brought against a member of the retirement board, the defense or settlement of
- 29 which action is made by an attorney employed by the retirement board, the member shall be indemnified
- 30 for all expenses incurred in the defense of this action and shall be indemnified for damages to the same
- extent as provided for public employees in chapter 258 of the General Laws if the claim arose out of acts
- 32 performed by the member or members while acting within the scope of his official duties, but a member
- of a retirement board shall not be indemnified for expenses incurred in the defense of an action, or
- damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of willful
- dishonesty or an intentional violation of law by the member.
- 36 SECTION 3. (a) An actuary, who shall be a member of the American Academy of Actuaries, shall
- perform an actuarial valuation of the town's OPEB liabilities and funding schedule, as of January 1, 2006,
- and no less frequently than every second year thereafter. The determinations shall be made in accordance
- 39 with generally accepted actuarial standards and shall conform to the requirements of GASB 43 and 45 and
- 40 the actuary shall make a report of the determinations to the town meeting. The report shall, without
- 41 limitation, detail the demographic and economic actuarial assumptions used in making the determinations,
- 42 and each report after the first report shall also include an explanation of the changes, if any, in the
- 43 demographic and economic actuarial assumptions employed and the reasons for the changes.
- 44 (b) Beginning in fiscal year 2008, payments for the purposes of meeting the town's costs of OPEB under
- 45 this act shall be made from the OPEB Trust Fund. Funds in the OPEB Trust Fund shall be segregated
- 46 from other funds. Disbursements from the OPEB Trust Fund including earnings or interest accruing from
- 47 the investment of these amounts may only be made based on sections 1 to 3, inclusive.
- 48 SECTION 4. This act shall take effect upon its passage.